

ORDINANCE NO. 28341

AN ORDINANCE OF THE CITY OF SAN JOSÉ REZONING CERTAIN REAL PROPERTY SITUATED AT THE SOUTH SIDE OF MURPHY AVENUE APPROXIMATELY 400 FEET EASTERLY OF OLD OAKLAND ROAD (1180 MURPHY AVENUE) FROM THE A(PD) PLANNED DEVELOPMENT ZONING DISTRICT TO THE A(PD) PLANNED DEVELOPMENT ZONING DISTRICT

WHEREAS, all rezoning proceedings required under the provisions of Chapter 20.120 of Title 20 of the San José Municipal Code have been duly had and taken with respect to the real property hereinafter described; and

WHEREAS, a Statement of Exemption was prepared for a rezoning project, under File No. PDC07-042, pursuant to the provisions of the California Environmental Quality Act of 1970, together with state guidelines promulgated thereunder and Title 21 of the San José Municipal Code (collectively, "CEQA") and said exemption was approved by the Director of Planning on May 14, 2008 and considered by the Planning Commission on May 28, 2008, none of which CEQA actions have been protested or appealed to City Council; and

WHEREAS, the City Council of the City of San José is the decision-making body for the proposed subject rezoning to A(PD) Planned Development Zoning District; and

WHEREAS, this City Council, as lead agency for this proposed project under CEQA, has read and considered the Statement of Exemption prepared in connection with this proposed project.

NOW THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF SAN JOSÉ:

SECTION 1. All that real property hereinafter described in this section, hereinafter referred to as "subject property," is hereby rezoned as A(PD) Planned Development.

The base district zoning of the subject property shall be A-Agriculture. The PD zoning of the subject property shall be that development plan for the subject property entitled, "1180 Murphy Avenue" dated November 7, 2007, **last revised May 28, 2008.**

The General Development Plan for this A(PD) Planned Development rezoning is on file in the office of the Director of Planning and is available for inspection by anyone

interested therein, and said General Development Plan is by this reference adopted and incorporated herein the same as if it were fully set forth herein.

The subject property referred to in this section is all that real property situated in the County of Santa Clara, State of California, described in Exhibit "A" attached hereto and incorporated herein by this reference.

SECTION 2. The district map of the City is hereby amended accordingly.

SECTION 3. The land development approval that is the subject of City File No. PDC07-042 is subject to the operation of Part 2.75 of Chapter 15.12 of Title 15 of the San José Municipal Code. The applicant for or recipient of such land use approval hereby acknowledges receipt of notice that the issuance of a building permit to implement such land development approval may be suspended, conditioned or denied where the City Manager has determined that such action is necessary to remain within the aggregate operational capacity of the sanitary sewer system available to the City of San José or to meet the discharge standards of the sanitary sewer system imposed by the California Regional Water Quality Control Board for the San Francisco Bay Region.

PASSED FOR PUBLICATION of title this 17th day of June, 2008 by the following vote:

AYES:	CAMPOS, CHIRCO, CHU, CONSTANT, CORTESE, LICCARDI, NGUYEN, OLIVERIO, PYLE, WILLIAMS, REED.
NOES:	NONE.
ABSENT:	NONE.
DISQUALIFIED:	NONE.

CHUCK REED
Mayor

ATTEST:

LEE PRICE, MMC
City Clerk